

fixed amount of communications services (30 minutes of toll telephone service) to be obtained by means of a PIN provided by the carrier, for which S's customer pays in advance of obtaining service; therefore, each card is a PTC. Because the value of each PTC is not designated in dollars and a tariff has not been filed for the minutes on the PTC, each PTC is an untariffed unit card.

(iii) The PTCs are untariffed unit cards transferred by the carrier to a transferee reseller. Thus, the face amount is determined under paragraph (c)(3)(ii) of this section, which permits D to choose from three alternative methods. Under paragraph (c)(3)(ii)(A)(1) of this section, the face amount of each PTC would be \$9, the highest amount for which D sells to holders purchasing a single PTC. Alternatively, under paragraph (c)(3)(ii)(A)(2) of this section, the face amount of each PTC would be \$8.10, computed as follows:  $135\% \times \text{the } \$60,000 \text{ sales price} \div 10,000 \text{ PTC's}$ . Finally, under paragraph (c)(3)(ii)(A)(3) of this section (assuming the PTCs are of a type that ordinarily is used entirely for domestic communications services), the face amount of each PTC would be \$9 ( $\$0.30 \times 30 \text{ minutes}$ ).

(iv) The cards are PTCs; thus, under section 4251(d), the face amount is treated as an amount paid for communications services and that amount is treated as paid when the PTCs are transferred from D to S. Accordingly, at the time of transfer, S is liable for the 3 percent tax imposed by section 4251(a). Assuming that D chooses to determine the face amount as provided in paragraph (c)(3)(ii)(A)(2) of this section, the amount of the tax is \$2,430 ( $3\% \times \text{the } \$8.10 \text{ face amount} \times 10,000 \text{ PTCs}$ ). Thus, the total paid by S is \$62,430, the \$60,000 sales price plus \$2,430 tax. D is responsible for collecting the tax from S.

*Example 7. Transfer of card that is not a PTC.*

(i) On May 1, 2000, E, a carrier, provides a telephone card to T, an individual, for T's use in making telephone calls. E provides T with a PIN. The card provides access to an unlimited amount of communications services. E charges T \$0.25 per minute of service, and bills T monthly for services used. The communications services acquired by using the card will be obtained by entering the PIN and the telephone number to be called.

(ii) Although the communications services will be obtained by means of a PIN, T does not receive a fixed amount of communications services. Also, T cannot pay in advance since the amount of T's payment obligation depends upon the number of minutes used. Therefore, the card is not a PTC.

(iii) Because the card is not a PTC, section 4251(d) does not apply. However, the 3 percent tax imposed by section 4251(a) applies to the amounts paid by T to E for the communications services. Accordingly, at the time an amount is paid for communications serv-

ices, T is liable for tax. E is responsible for collecting the tax from T.

(f) *Effective date.* This section is applicable with respect to PTCs transferred by a carrier on or after the first day of the first calendar quarter beginning after January 7, 2000.

[T.D. 8855, 64 FR 1057, Jan. 7, 2000; 65 FR 10153, Feb. 25, 2000]

**§ 49.4252-1 General telephone service.**

(a) *In general.* The term "general telephone service" means any telephone or radio telephone service furnished in connection with any fixed or mobile telephone or radio telephone station which may be connected, directly or indirectly, to an exchange operated by a person engaged in the business of furnishing communication service, if by means of such connection communication may be established with any other fixed or mobile telephone or radio telephone station. Such term includes generally the ordinary residential and business or commercial telephone service within a local service area, and includes all types of such service, such as individual line and party line telephones, and extension telephones. Where, in addition to the basic periodic charge for such telephone service within the local service area, there are additional charges, for example, for calls in excess of a certain number or for calls between certain points within the same local service area, the telephone service for which such additional charges are made is included within the term "general telephone service". These additional charges for services within a local service area, generally referred to as "message units", are not considered to be "toll charges". General telephone service, however, is not limited to service furnished within a local service area. Except as otherwise provided in this paragraph, the term includes any service furnished which is telephonic in nature, regardless of the commercial or other name or term by which such service may be known or designated, if the fixed or mobile telephone or radio telephone station used in conjunction with such service may be connected (directly or indirectly) to an exchange whether located within or without the local service area operated by a person

engaged in the business of furnishing communication service, and if by means of such connection communication may be established with any other fixed or mobile telephone or radio telephone station. If the described facilities may be connected to such an exchange, the service constitutes general telephone service whether or not it is the practice of the subscriber to the service to make such connection, and whether or not the person engaged in the business of furnishing communication service permits the subscriber to make such connection. General telephone service also includes the use of any private branch exchange (and any fixed or mobile telephone or radio telephone station connected, directly or indirectly, with a private branch exchange), and any tie line or extension line (including an off-premise extension line), which may be connected, directly or indirectly, to an exchange operated by a person engaged in the business of furnishing communication service, if by means of such connection communication may be established with any other fixed or mobile telephone or radio telephone station. However, the term does not include any service which is toll telephone service or wire and equipment service. For the definition of the term "toll charge", see paragraph (a) of § 49.4252-2. For provisions relating to coin-operated telephones, see section 4253(a) and § 49.4253-1.

(b) *Amounts paid.* For purposes of the tax in respect of general telephone service, the term "amounts paid" means the amounts collected for the service, whether the charge is made on a monthly or other periodic basis, or is based on the number of calls made, or is in the form of an assessment as in the case of a mutual telephone system. Where a basic periodic charge is made for the service, with additional charges for all calls or additional calls above a certain number, the additional charges are also subject to the tax. Other rules relating to amounts paid are as follows:

(1) Where the charge for telephone service includes an additional charge for not making payment within a specified time, the total amount paid including the additional charge is the

basis for computing the amount of tax due. Similarly, where a discount is allowed for the payment within a specified time of a charge for service rendered, the tax is to be computed on the amount actually paid.

(2) Assessments or charges paid by members or subscribers of a mutual or cooperative telephone company, association, or system for switching services, or for the repair or replacement of instruments, poles, wires, equipment, etc., incidental to ordinary maintenance, are subject to the tax.

(3) All amounts paid by subscribers for private branch exchange service, for the use of switchboard, switching, and other telephone equipment, for the use of trunk line facilities, for tie lines connecting private branch exchanges, and for any extension line, are subject to the tax on general telephone service.

(4) The tax attaches to the total charge made to a hotel or similar subscriber for general telephone service furnished to the hotel or its guests, but no tax attaches to any charge made by the hotel for service rendered in placing the calls for its guests.

(5) In cases where a person leases lines or channels, equipment, and other facilities used in conjunction with general telephone service, the amounts paid by such person for such lines or channels, equipment, and other facilities constitute amounts paid for general telephone service, notwithstanding the fact that the lines or channels, equipment, and other facilities used in conjunction with such service are supplied by different persons or in part by the user of such service.

(c) *Cross reference.* For other provisions relating to general telephone service, see § 49.4252-4.

#### § 49.4252-2 Toll telephone service.

(a) *In general.* The term "toll telephone service" means any telephone or radio telephone message or conversation for which there is a toll charge, and the charge is paid within the United States. A toll charge is a charge made for such a message or conversation to a place beyond the local service area. For the meaning of the term "United States", see paragraph (d) of § 49.4252-4.